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2008 MAR 12 P 4 18

Debra P. Hackett
Clerk, U.S. District Court
15 LEE ST STE 206
MONTGOMERY AL 36104-4055

March 11, 2008

Appeal Number: 08-10764-E

Case Style: Daniel Bryan Kelley v. Ricky Owens

District Court Number: 05-01150 CV-2-MHT-TFM

CC: Gary L. Willford, Jr.

CC: Kendrick Emerson Webb

CC: Edmund A. Booth, Jr.

CC: Debra P. Hackett

CC: Richard J. Stockham, III

CC: Kristi Allen McDonald

CC: Administrative File

United States Court of Appeals

Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

Thomas K. Kahn
Clerk

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MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 08-10764-E

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District Court Number: 05-01150 CV-2-MHT-TFM

NOTICE OF APPEAL FILED: February 15, 2008

After review of the district court docket entries, order and/or judgment appealed from, and the notice of appeal, it appears that this court may lack jurisdiction over this appeal. If it is determined that this court is without jurisdiction, this appeal will be dismissed.

The parties are requested to simultaneously advise the court in writing within fourteen (14) days from the date of this letter of their position regarding the jurisdictional question(s) set forth on the attached page. An original plus three copies of any response should be filed. The responses must include a Certificate of Interested Persons and Corporate Disclosure Statement as described in Fed.R.App.P. 26.1 and the corresponding circuit rules. Requests for extensions of time to file a response may not be entertained.

After fourteen (14) days, this court will consider any response(s) received and any portion of the record that may be required to resolve the jurisdictional issue(s). Please note that the issuance of a jurisdictional question does not stay the time for filing appellant's briefs otherwise provided by 11th Cir. R. 31-1.

Sincerely,

THOMAS K. KAHN, Clerk

Reply To: Gloria Powell (404) 335-6184

c: District Court Clerk

No.08-10764-EE

JURISDICTIONAL QUESTION

Whether the order entered on February 1, 2008, that, inter alia, denied Sheriff Ricky Owens's motion for summary judgment based on qualified immunity, is immediately appealable? See 28 U.S.C. § 1291; Johnson v. Jones, 515 U.S. 304, 313, 115 S.Ct. 2151, 2156, 132 L.Ed.2d 238 (1995); Robinson v. Arrugueta, 415 F.3d 1252, 1257 (11th Cir. 2005); Koch v. Rugg, 221 F.3d 1283, 1295-98 (11th Cir. 2000); Cottrell v. Caldwell, 85 F.3d 1480, 1485 (11th Cir. 1996); Haney v. City of Cumming, 69 F.3d 1098, 1101 (11th Cir. 1995); McDaniel v. Woodard, 886 F.2d 311, 313 (11th Cir. 1989).